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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/614,074

07/07/2003

Ronald R. Bartman

1005 - U.S.

6371

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06/30/2008

EXAMINER

SPAHN, GAY

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

06/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/614,074 | BARTMAN ET AL. | |
| | Examiner | Art Unit | |
| | Gay Ann Spahn | 3635 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/17/07, 12/27/07 & 4/1/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7,9-15,22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7, 9-14,22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

In an Office Action mailed 26 February 2007, Examiner Horton withdrew claim 23 in a restriction requirement by original presentation. The present examiner is vacating Examiner Horton's restriction requirement as being improper and therefore, claim 23 is no longer withdrawn and will be examined in the present office action below.

Drawings

The drawings are objected to because:

(1) Fig. 1, the arrows at the end of lead lines leading from reference numerals 13 and 14 do not comply with any of 37 CFR 1.84(r)(1-3) and therefore, the arrows should be deleted and the lead lines should be drawn to touch the structures they represent;

(2) Fig. 2, the arrows at the end of lead lines leading from reference numerals 13, 21, 31, 32, and 33 do not comply with any of 37 CFR 1.84(r)(1-3) and therefore, the arrows should be deleted and the lead lines should be drawn to touch the structures they represent;

(3) Fig. 3, the arrows at the end of lead lines leading from reference numerals 13 and 21 do not comply with any of 37 CFR 1.84(r)(1-3) and therefore, the arrows should be deleted and the lead lines should be drawn to touch the structures they represent;

(4) Fig. 4, the arrow at the end of lead line leading from reference numeral 57 does not comply with any of 37 CFR 1.84(r)(1-3) and therefore, the arrow should be deleted and the lead line should be drawn to touch the structure it represent; and

(4) Fig. 7, the arrow at the end of lead line leading from reference numeral 13 does not comply with any of 37 CFR 1.84(r)(1-3) and therefore, the arrow should be deleted and the lead line should be drawn to touch the structure it represent.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

(1) reference numerals 51 and 52 in Fig. 3.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because:

(1) the Abstract is not narrative in form (i.e., short concise sentences in layman's language), but rather appears to be in claim form (i.e., one long run-on sentence).

Correction is required. See MPEP § 608.01(b).

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

It is suggested that the title be changed to reflect that a method is being claimed.

Since many examiners use the title of the invention for searching purposes, the examiner suggests that Applicants amend the title of the invention to one that is clearly indicative of the patentable feature of the invention. However, should Applicants choose not to amend the title of the invention, the examiner will amend the title of the invention at the time of allowance, if any (pursuant to the Manual of Patent Examining Procedure (MPEP) § 606.01, wherein it states that "[i]f a satisfactory title is not supplied by the applicant, the examiner may, at the time of allowance, change the title by examiner's amendment.").

The use of the trademark "Torx" has been noted in this application. It should be capitalized (first letter only) wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 7, 9-14, and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 11-12, the recitation of “being indistinguishable from the area surrounding the fastening means from a very short distance away” is vague, indefinite, and confusing as not being understood.

Claim 1, line 13, the recitation of “being virtually vandal proof” is vague, indefinite, and confusing as not being understood.

Claim 1, lines 14-15, the recitation of “that portion of the fastening means which is visible only within a very short distance away” is vague, indefinite, and confusing as lacking antecedent basis.

Claim 1, line 15, the recitation of “non-standard tool means” is vague, indefinite, and confusing as not being understood.

Claim 1, line 16, the recitation of “the only visible portion of the fastening means” is vague, indefinite, and confusing as lacking antecedent basis.

Claim 1, line 18, the recitation of “the edges” is vague, indefinite, and confusing as lacking antecedent basis because it has not been established that the visible facing object has edges.

Claim 7, line 3, the recitation of “the exterior viewable surface” is vague, indefinite, and confusing as lacking antecedent basis.

Claim 7, line 5, the recitation of “the visible surface” is vague, indefinite, and confusing as lacking antecedent basis.

Claim 7, line 7, the recitation of “the size of the access hole” is vague, indefinite, and confusing as not being understood. Is the “size” referring to the length, the depth, or the diameter of the access hole of something else?

Claim 7, line 3, the recitation of “that portion of the linear design within which it is located” is vague, indefinite, and confusing as lacking antecedent basis and as not being understood.

Claim 9, line 3, the recitation of “the aligning means” is vague, indefinite, and confusing as lacking antecedent basis.

Claim 9, line 3, the recitation of “the screw head” is vague, indefinite, and confusing as lacking antecedent basis.

Claim 9, lines 4 and 5, the recitation of “torx” is vague, indefinite, and confusing as being a trademark and trademarks are subject to change so that they cannot be used in a patent claim and must be changed to the generic terminology.

Claim 10, lines 2, 3, 4, and 5, the recitation of “torx” is vague, indefinite, and confusing as being a trademark and trademarks are subject to change so that they cannot be used in a patent claim and must be changed to the generic terminology.

Claim 10, line 2, the recitation of “the screw head” is vague, indefinite, and confusing as lacking antecedent basis.

Claim 10, line 3, the recitation of “a standard torx socket” is vague, indefinite, and confusing as not being understood.

Claim 10, line 4, the recitation of “the torx screwdriver” is vague, indefinite, and confusing as lacking antecedent basis.

Claim 10, line 3, the recitation of “a standard torx screwdriver” is vague, indefinite, and confusing as not being understood (i.e., what constitutes “standard?”).

Claim 11, lines 2 and two occurrences on line 3, the recitation of “torx” is vague, indefinite, and confusing as being a trademark which are subject to change or lack of renewal and which are proprietary to the organization that owns them so that they cannot be used in a patent claim. Therefore, Applicant must change the word “torx” to its the generic terminology.

Claim 11, line 2, the recitation of “the torx socket” is vague, indefinite, and confusing as lacking antecedent basis.

Claim 11, line 2, the recitation of “the head of the rivet nut screw” is vague, indefinite, and confusing as lacking antecedent basis.

Claim 11, lines 2-3, the recitation of “the size of the head of the rivet nut screw” is vague, indefinite, and confusing as lacking antecedent basis.

Claim 11, line 3, the recitation of “are intermediate standard torx sizes” is vague, indefinite, and confusing as not being understood (i.e., what sizes constitutes “intermediate” to the standard sizes?).

Claim 12, line 24, the recitation of “its as made condition” is is vague, indefinite, and confusing as not being understood. What is meant by “as made condition”?

Claim 12, line 25, the recitation of “the access hole” is vague, indefinite, and confusing as lacking antecedent basis because it is not clear whether this is referring to the small or larger access hole.

Claim 12, each of lines 31-37 and two occurrences on line 38, the recitation of “torx” is vague, indefinite, and confusing as being a trademark which are subject to change or lack of renewal and which are proprietary to the organization that owns them so that they cannot be used in a patent claim. Therefore, Applicant must change the word “torx” to its the generic terminology.

Claim 12, line 34, the recitation of “a standard torx socket” is vague, indefinite, and confusing as not being understood.

Claim 12, line 3, the recitation of “a standard torx screwdriver head” is vague, indefinite, and confusing as not being understood (i.e., what constitutes “standard”?).

Claim 12, line 38, the recitation of “are intermediate standard torx sizes” is vague, indefinite, and confusing as not being understood (i.e., what sizes constitutes “intermediate” to the standard sizes?).

Claim 12, line 39, the recitation of “the large access hole” is vague, indefinite, and confusing as lacking antecedent basis because it is not clear whether this is referring back to the “larger” access hole.

Claim 14, each of lines 2, 4, and 6, the recitation of “torx” is vague, indefinite, and confusing as being a trademark which are subject to change or lack of renewal and which are proprietary to the organization that owns them so that they cannot be used in a patent claim. Therefore, Applicant must change the word “torx” to its the generic terminology.

Claim 22, lines 3-4, the recitation of “the exterior viewable surface of the visible surface of the facing object” is vague, indefinite, and confusing as not being understood. What is the difference between the “exterior viewable surface” and the “visible surface” (i.e., it appears that Applicants are reciting the same structure twice using different terminology).

Claim 22, line 23, the recitation of “its as made condition” is is vague, indefinite, and confusing as not being understood. What is meant by “as made condition”?

Claim 22, line 24, the recitation of “the access hole” is vague, indefinite, and confusing as lacking antecedent basis because it is not clear whether this is referring to the small or larger access hole.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3635

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by SCHNEIDER (U.S. Patent No. 3,936,927).

As to claim 1, SCHNEIDER discloses a system for securing a visible facing object to a rigid supporting structure using fastening means, said system including:

a supporting structure (14),

a visible facing object (12) of stone or similar frangible material having an exterior viewable surface (top of Fig. 1); and

fastening means (22) “for securing the visible facing object to the supporting structure” (the structure of SCHNEIDER is capable of performing the recited intended use within quotation marks),

said fastening means (22) “being indistinguishable from the area surrounding the fastening means from a very short distance away” (the structure of SCHNEIDER is capable of performing the recited intended use within quotation marks),

said fastening means (22) further “being virtually vandal proof” (the structure of SCHNEIDER is capable of performing the recited intended use within quotation marks),

that portion of the fastening means (22) which is visible only within a very short distance away is “activateable only by non-standard tool means” (the structure of SCHNEIDER is capable of performing the recited intended use within quotation marks),

the only visible portion of the fastening means (22) on the visible facing object (12) being a small access hole (20) in the visible facing object (12) located inwardly from the edges thereof.

As to claim 23, SCHNEIDER discloses in a method of assembling and disassembling a facing object (12) of stone or similar frangible material (rigidized surface insulation or RSI tile) having an access aperture (20/21) to a structure (14/30) located behind the facing object (12), said method being virtually vandal proof, the steps of

providing anchor means (28) which, when activated, becomes fixed to the structure (14),

providing fastening means (22) aligned with the access aperture (20/21) for assembling and disassembling the facing object (12) to the structure (14/30) after the anchor means (28) is fixed to the structure,

activating the fastening means (22) initially by a tool to permanently fix the anchor means (28) to the structure (14/30) and simultaneously fasten the facing object (12) to the structure (14/30), and

thereafter activating the fastening means (22) by said tool to disassemble the facing object (12) from the structure (14/30) while the fixed anchor means (28) remains fixed to the structure (14/30),

said fastening means (22) fixing the facing object (12) to the structure (14/30) by wedging pressure exerted by the fastening means (22) against the surface of a cavity (21) located within the facing object (12), and

thereafter assembling and disassembling the facing object (12) to the structure (14/30) any desired number of times by alternately applying and releasing the wedging pressure, all the while the anchor means (20) remains fixed to the structure (14/30).

Response to Arguments

Applicant's arguments with respect to claims 1, 7, 9-14, 22 and 23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Friday, 10:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on (571)-272-6777. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Art Unit: 3635

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gay Ann Spahn/
Gay Ann Spahn, Primary Examiner
June 21, 2008